

Page 1

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

2 -----X
3 JAMES BENBOW,

4 PLAINTIFF,

5 -against-

Case No.:

6
7 17-CV-6457

8 CITY OF NEW YORK; POLICE OFFICER BRIAN W. FEELY; POLICE
9 OFFICER MATTHEW J. ROSIELLO; POLICE OFFICER KENNETH L.
10 ANDERSON; SERGEANT WILLIAM A. DAIB; POLICE OFFICER
11 SHANIEL J. MITCHELL; and POLICE OFFICER STEPHEN J. MINUCCI,

12 DEFENDANTS.

13 DATE: September 17, 2020
14 TIME: 10:02 A.M.

15
16 DEPOSITION of the Plaintiff, JAMES BENBOW,
17 taken by the Defendant, pursuant to a Court Order and to
18 the Federal Rules of Civil Procedure, held via Zoom
19 videoconference, before Caitlin M. Zakik, a Notary Public
20 of the State of New York.

Page 2

1 A P P E A R A N C E S:

2

3 THE ABOUSHI LAW FIRM

4

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New York, New York 10018
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CITY OF NEW YORK; POLICE OFFICER BRIAN W. FEELY;
POLICE OFFICER MATTHEW J. ROSIELLO; POLICE OFFICER
KENNETH L. ANDERSON; SERGEANT WILLIAM A. DAIB;
POLICE OFFICER SHANIEL J. MITCHELL; and POLICE
OFFICER STEPHEN J. MINUCCI,
100 Church Street
New York, New York 10007
BY: JOSHUA WEINER, ESQ.

8

AARON DAVISON, ESQ.

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File #: 2017-066702

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Control #: 20-1781

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Page 3

1 F E D E R A L S T I P U L A T I O N S
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4 IT IS HEREBY STIPULATED AND AGREED by and between
5 the counsel for the respective parties herein that the
6 sealing, filing and certification of the within deposition
7 be waived; that the original of the deposition may be
8 signed and sworn to by the witness before anyone authorized
9 to administer an oath, with the same effect as if signed
10 before a Judge of the Court; that an unsigned copy of the
11 deposition may be used with the same force and effect as if
12 signed by the witness, 30 days after service of the
13 original & 1 copy of same upon counsel for the witness.

14

15 IT IS FURTHER STIPULATED AND AGREED that all
16 objections except as to form, are reserved to the time of
17 trial.

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Page 4

1 J A M E S B E N B O W , called as a witness, having been
2 first duly sworn by a Notary Public of the State of New
3 York, was examined and testified as follows:

4 EXAMINATION BY

5 MR. WEINER:

6 Q. Please state your name for the record.

7 A. James Benbow.

8 Q. What is your address?

9 A. 177 Sands Street, Apartment 7D, Brooklyn,
10 New York 11201.

11 Q. Good morning, Mr. Benbow. My name is Joshua
12 Weiner. I represent the defendants in the case you've
13 brought in the caption 17-CV-6457 in the Eastern District
14 of New York.

15 Do you understand that you've just taken an oath
16 to tell the truth?

17 A. Yes, sir.

18 Q. Rules about how a deposition works in case you're
19 not familiar: Your answers need to be verbal. So if I ask
20 you a question it needs to be a yes or a no as opposed to a
21 shake of the head. I'd also ask you to say a yes or a no
22 instead of uh-huh or uh-uh because when the Court Reporter
23 puts it in the transcript it's more clear that way.

24 Okay?

25 A. Got you.

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1 younger?

2 A. Yeah.

3 MR. ABOUSHI: Just note my objection.

4 Q. What was the answer?

5 A. Yes.

6 Q. How young were you?

7 A. Probably like 12. Like 12.

8 Q. If I have a record that says you were arrested
9 for possession of a handgun in 1994, would you agree with
10 that?

11 A. I guess if you got it. I don't know.

12 Q. Any other times besides for the two we've
13 mentioned in 2015 and in 1994 that you've been arrested for
14 possessing a handgun?

15 A. No.

16 Q. Have you been arrested for possessing any other
17 type of gun?

18 A. No.

19 Q. Did you submit a notice of claim to the City of
20 New York for this incident?

21 A. Yeah.

22 Q. Do you remember when you submitted it?

23 A. No. I can't recall.

24 Q. Did you ever testify regarding the notice of
25 claim you submitted to the City of New York for this

Page 51

1 incident?

2 A. No. I don't believe so.

3 Q. Do you know if you were scheduled to testify
4 regarding the notice of claim?

5 A. No. I had a lawyer that was handling that stuff
6 so I wasn't -- I'm not aware of any -- I never saw
7 anything.

8 Q. Did you ever learn that -- so you never learned
9 that you were scheduled to testify regarding the notice of
10 claim?

11 A. No. Uh-uh. He basically railroaded me.

12 Q. He railroaded you. How so?

13 A. Because I didn't know nothing about it. Like
14 once he did that I didn't know I was supposed to testify or
15 nothing of that. I had no idea.

16 MR. ABOUSHI: I'm going to object on the
17 grounds that these conversations he had with his
18 previous lawyer may be protected by
19 attorney-client privilege and any conversation or
20 interaction between them might be protected by
21 same. I don't know if we can get into that.

22 MR. WEINER: I'll try to work around it,
23 Aymen. Okay?

24 MR. ABOUSHI: All right. I'm just going to
25 listen thoughtfully to the questions and I may

Page 61

1 question.

2 MR. WEINER: Understood, but I have to be
3 able to ask about the events of that night.

4 MR. ABOUSHI: You can ask subject to
5 everything I just said on the record. I'm not
6 saying not to answer.

7 MR. WEINER: No problem.

8 Q. At some point on March 7, 2015, did you go to
9 Amarachi Prime?

10 A. Yes.

11 Q. What is Amarachi Prime?

12 A. It's a restaurant.

13 Q. What day of the week was March 7, 2015?

14 A. I don't know. I don't know what day.

15 Q. Before getting to the restaurant, when I -- is it
16 also a bar, Amarachi Prime?

17 A. It's like every -- I guess every restaurant has
18 like a bar to it or whatever, so yes. I guess it's a
19 restaurant/bar.

20 Q. So going forward, when I say "bar" or
21 "restaurant," I'm speaking about Amarachi Prime.

22 Okay?

23 A. Yes.

24 Q. What did you do on March 7, 2015, before you got
25 to the restaurant?

Page 62

1 A. I can't recall. I can't recall.

2 Q. Who did you see that day before you got to
3 Amarachi Prime?

4 A. I can't recall. I can't recall.

5 Q. Did you drink any alcohol before you got to
6 Amarachi Prime?

7 A. No.

8 Q. Did you do any drugs before you got to Amarachi
9 Prime?

10 A. No.

11 Q. When you arrived at Amarachi Prime, were you in
12 possession of a gun?

13 A. No.

14 Q. As of March 7, 2015, did you have a license or a
15 permit to possess a gun?

16 A. No.

17 Q. As of March 7, 2015, were you familiar with an
18 individual known as Eric Bradley?

19 A. Yes.

20 Q. How did you know Eric Bradley?

21 A. Next door neighbor.

22 Q. When did you first meet him?

23 A. Probably like '09 or '10 or something like that.
24 '09 or '10.

25 Q. As of the date of the incident, would you

Page 63

1 consider him a friend?

2 A. No. Not really, no.

3 Q. I'm sorry. I missed that answer.

4 A. No.

5 Q. How would you categorize your relationship with
6 him as of the date of the incident?

7 A. A neighbor.

8 Q. As of the date of the incident, how often would
9 you see him?

10 A. I guess taking the garbage out and going to the
11 store. I mean, we live right next door.

12 Q. Would you speak to him typically when you would
13 see him?

14 A. Yeah. Regular neighbors and stuff, "hi" and
15 "what's up?"

16 Q. As of 2015, did you have his number in your
17 phone?

18 A. Not that I can recall.

19 Q. As of 2015, would you go out to hang out with
20 him?

21 A. Not really. Not that I can recall. He wasn't my
22 hangout partner. He's a younger guy. I don't really --
23 you know, no. Uh-uh.

24 Q. You said you know him since 2009 to 2010. Was
25 that when he moved into the building?

Page 64

1 A. No. That's when I came to the building. He's
2 been living there, I guess, his whole life off and on.
3 Like, I don't know.

4 Q. When was the last time you saw him?

5 A. I don't even know. It's been a while.

6 Q. Have you seen him since after the incident?

7 A. Yes.

8 Q. When was the first time you saw him after the
9 incident?

10 A. I don't know. I can't recall.

11 Q. Can you approximate how many times you've seen
12 him since after the incident?

13 A. I don't know.

14 Q. Is it more than ten?

15 A. I don't know.

16 Q. Is it more than five?

17 A. I have no idea. I don't know.

18 Q. Is it more than one?

19 A. I have no idea.

20 Q. I'm sorry.

21 Is it more than one?

22 A. I have no idea.

23 Q. Did you hang out with him on the night of the
24 incident?

25 A. No. I didn't hang out with him, but he was in

Page 65

1 the restaurant when I got there.

2 Q. Describe your interactions with him on the night
3 of the incident.

4 MR. ABOUSHI: Objection. You can answer.

5 A. I can't recall. I think regular. We see an
6 associate or neighbor in the bar that you know. Regular, I
7 guess.

8 Q. How much time did you spend with him inside the
9 bar that night?

10 A. Well, I was there -- I was there not spending
11 time with him. I was there just, you know, enjoying
12 myself. He just happened to be there also. So the time I
13 can't recall how long, you know, I was in there for.

14 Q. Would you say that you hung out with him for less
15 than an hour that night?

16 A. I don't know the time frame and all of that. I
17 know he was there and I was there, you know. I do know
18 that. He was there.

19 Q. Is it your testimony that you don't remember how
20 long you hung out with him that night?

21 A. I didn't hang out with him. I was in the bar by
22 myself. You're putting me with him. I wasn't there with
23 him. I didn't come in there with him, you know. When I
24 was leaving out, yeah, because we live right down the
25 block, but I didn't come in there with him. I didn't come

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1 there to hang out with him.

2 Q. Who did you hang out with at the bar that night?

3 A. Everybody. Females. Majority of the females.

4 There's some hot girls in there.

5 Q. Do you remember the names of the people you hung
6 out with at the bar that night?

7 A. Well, to be honest with you, I was hanging out
8 with the owner.

9 Q. What's the owner's name?

10 A. I think his name was Sam. He got a Nigerian
11 African name.

12 Q. So you think his first name was Sam?

13 A. Yeah. Something like -- I don't know. Something
14 of that nature.

15 Q. Who else did you hang out with besides for Sam
16 that night?

17 A. That was about it that I can recall. That and
18 talking to a female bartender.

19 Q. Did you go to the bar with anybody else?

20 A. Yes. When I first came, I was with somebody. I
21 was with a female.

22 Q. Who were you with?

23 A. I was with a female, Ms. Williams.

24 Q. Kate Williams?

25 A. Yeah.

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1 Q. And you also said you were talking to a bartender
2 when you were there?

3 A. Yeah. After she left.

4 Q. What's the name of the bartender?

5 A. I forgot her name. I ain't going to lie.

6 Q. On the night of the incident, did you sell
7 Mr. Bradley anything?

8 A. No.

9 Q. On the night of the incident, did you give
10 Mr. Bradley a bag of any kind?

11 A. Yes. I think when I was leaving.

12 Q. Why did you give him a bag?

13 A. It was his bag.

14 Q. Why did you have his bag?

15 A. It was in my car. He didn't have a car at the
16 end of the day.

17 Q. So he had left a bag in your car?

18 A. Yeah.

19 Q. Why did he leave a bag in your car?

20 A. I don't know.

21 Q. Prior to the night of the incident, do you
22 remember when was Mr. Bradley in your car?

23 A. Maybe like the day before or so.

24 Q. Why was he in the car?

25 A. Like I said, he's not a person that I hang out

Page 73

1 he just took off or he may have slid off with a girl. I
2 can't remember that. Do you know what I'm saying? He may
3 have slid off with a girl. I don't know. I can't recall
4 that.

5 Q. So where did you give him a ride? From Atlantic
6 Avenue to where?

7 A. I told you we started drinking and I can't recall
8 at the end of the day. You're talking about five years
9 ago.

10 Q. Where is Amarachi Prime located?

11 A. On Nassau Street. 189 Bridge, I think.

12 Q. So the corner of Bridge and Nassau?

13 A. Yeah.

14 Q. How far from your home is it? How far from 177
15 Sands to Amarachi Prime?

16 A. Two blocks. About two blocks. Two to three
17 blocks.

18 Q. On the night of the incident, how did you get to
19 Amarachi Prime?

20 A. I was in a car.

21 Q. Was it your car?

22 A. Nope.

23 Q. Whose car was it?

24 A. It was Ms. Williams. I was driving. Basically I
25 drive her car at the end of the day. So she was letting me

Page 76

1 Amarachi Prime?

2 A. No. I was just eating.

3 Q. Those two previous times, who did you hang out
4 with?

5 A. It was like a female. What female, I have no
6 idea.

7 Q. Those two previous times, did you ever interact
8 with the owner of the bar?

9 A. Besides getting introduced to him from my nephew,
10 then, you know, yeah. As far as him saying like, "Uncle,
11 this is such and such and boom, boom, boom," that was it.

12 Q. On any of those occasions, did you ever tell the
13 owner of the bar that you wanted to invest in the bar?

14 A. I can't recall.

15 Q. Those two previous times you'd been to Amarachi
16 Prime before the night of the incident, did you ever
17 interact with any of the security personnel at Amarachi
18 Prime?

19 A. No. Not that I can recall.

20 Q. Are you familiar now with a person named Jason
21 Marshall?

22 A. Yes.

23 Q. When was the first time you interacted with him?

24 A. On that night.

25 Q. Can you describe his appearance? What does he

Page 77

1 look like?

2 A. I think he's like a short, light-skinned
3 brown-skinned guy.

4 Q. He's short and he's African American?

5 A. Yes. He's African American.

6 Q. Did he have any facial hair?

7 A. Not that I can recall. I can't recall like that.

8 Q. What's his build? Skinny? Fat? Medium?
9 Something else?

10 A. I guess he's medium. I'd give him like
11 five-seven or five-eight.

12 Q. On the night of the incident, what time did you
13 get to Amarachi Prime?

14 A. I want to say approximately 7:00 or 8:00, yeah.

15 Q. If I have video showing that you got there at
16 around 8:18 p.m., would that sound correct to you?

17 A. If that's it, yeah. I mean, I don't know.

18 Q. What were you wearing that night?

19 A. Black jacket, glasses, sweat suit. I had a sweat
20 suit on.

21 Q. What color was the sweat suit?

22 A. Nike Tech sweat suit.

23 Q. What color?

24 A. Black.

25 Q. Were you wearing anything on your head?

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1 A. Yes. A knit hat or whatever. A skully.

2 Q. Was it a knit hat or was it a du-rag or something
3 else?

4 A. No. It was a skully. Like a skully or like a
5 knit hat. I don't know what you would call it. A skully.

6 MR. WEINER: I want to show you an exhibit.

7 Okay? This is going to be Exhibit 1. All right?
8 The exhibit is Defendant 2384 and the exhibit is
9 going to be the video file numbered 08250400.

10 MR. ABOUSHI: Josh, this is a video, right?

11 MR. WEINER: Yes.

12 MR. ABOUSHI: Are you going to play it on
13 your screen first?

14 MR. WEINER: Yes. Just bear with me.

15 MR. ABOUSHI: No problem.

16 (Whereupon, a video was marked as
17 Defendants' Exhibit 1 for identification as of
18 this date by the Reporter.)

19 MR. WEINER: Let's go off the record now.

20 (Whereupon, an off-the-record discussion was
21 held.)

22 Q. Mr. Benbow, I'm going to start playing you
23 Exhibit 1 at 8:29:43 p.m.

24 Okay?

25 A. Okay.

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1 guy once. Like, that was it.

2 Q. When was the first time that you met Jason
3 Marshall?

4 A. I can't -- I don't know. I can't recall.

5 MR. ABOUSHI: Objection.

6 Q. Was it previous to March 7, 2015?

7 A. No. I don't know. I don't think so.

8 Q. Do you think you met him on the night of the
9 incident?

10 A. I can't recall.

11 Q. At a certain point the night of the incident, did
12 you leave Amarachi Prime?

13 A. Yeah.

14 Q. Did you leave with anybody?

15 A. Yeah. With Eric Bradley, I believe, yeah.

16 Q. Do you have any understanding of where Eric
17 Bradley was going?

18 A. No.

19 Q. Did he ever tell you where he was going?

20 A. Not that I can recall, no.

21 Q. Did you and he decide to leave the bar together?

22 A. Not that I recall.

23 Q. What was the reason why you left the bar that
24 night?

25 A. I was going home.

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1 MR. WEINER: I want to show you another
2 video. I think this will be the last video I
3 show you. Let's mark it Exhibit 5 and Exhibit 5
4 is the video that's contained in Defendant 2381
5 and it's the file that's entitled 100 Nassau
6 Street. I'll represent to you that this video
7 was taken on the night of the incident.

8 (Whereupon, a video was marked as
9 Defendants' Exhibit 5 for identification as of
10 this date by the Reporter.)

11 Q. I'll begin the video at 12:45 a.m.
12 Mr. Benbow, is 12:45 approximately the time that
13 you left Amarachi Prime the night of the incident?

14 A. I can't recall. I don't know.

15 Q. I'm stopping the video at 12:45:32 a.m.

16 Now, Mr. Benbow, can you now see my screen?

17 A. Yeah.

18 Q. What street is depicted on my screen?

19 A. I don't know. It looks like Nassau.

20 Q. Do you see yourself in this video?

21 A. I see two shadows, two people. I can't make it
22 out like that.

23 Q. Is there a person to the right and a person to
24 the left?

25 A. Yeah.

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1 Q. Have you seen this video before?

2 A. Not that I can recall, no.

3 Q. I'm going to play it.

4 It's now stopped at 12:45:32 a.m. and I'm going
5 to play it and it's stopped at 12:45:34.

6 Do you see yourself on this video?

7 A. No. I just see two shadows. I can't see
8 nothing. You're not letting it play out so I can really
9 see.

10 Q. I'll play the whole thing through for you.

11 Okay?

12 A. Yeah.

13 Q. I'm now stopped at 12:45:45.

14 Did you recognize yourself in the portion of the
15 video that I played?

16 A. Yeah. I remember me running. I remember that
17 situation happening.

18 Q. So let me go back to where the video started.

19 Just a second. I'm going to get the video back to
20 12:45:30.

21 A. Can you play it one more time again?

22 Q. You want me to play it the whole way through?

23 A. Yes.

24 Q. Okay. I'm happy too.

25 I stopped it at 12:45:29 and now I'm going to hit

Page 102

1 play.

2 I've hit pause at 12:45:48. I'm going to go back
3 to 12:45:30 and stop it then.

4 I've stopped at 12:45:31.

5 Mr. Benbow, having viewed this video, now do you
6 recall if you are now depicted on the screen that's paused
7 at 12:45:31?

8 A. Yes.

9 Q. Where are you depicted in this video?

10 A. To the right.

11 Q. Was it fair to say that you're walking alongside
12 somebody on the sidewalk of Nassau Street?

13 A. Yes.

14 Q. And you're to the right of that person?

15 A. Correct.

16 Q. From your own recollection, what happened when
17 you left -- well, when you left Amarachi Prime, what street
18 did you exit on?

19 A. I think it was Bridge Street and then I made a
20 right turn on Nassau, which is that street right there.

21 Q. When you left the bar, did you go right or left
22 on Bridge Street?

23 A. Right.

24 Q. And then when you got to Nassau from Bridge, did
25 you go right or left on Nassau?

Page 103

1 A. Right.

2 Q. And what happened -- just take me back through
3 your own memory what happened next.

4 A. I was walking down the street and I was just
5 talking to Bradley and then when I looked to the left of me
6 I see like guns like was out the window so --

7 Q. Mr. Benbow, you cut out there. I lost you at
8 "the left of me." I have to ask you a question again. I'm
9 sorry. The Internet on your end paused.

10 Can you just go back from when you turned onto
11 Nassau Street what happened?

12 A. When I turned onto Nassau Street, I'm walking
13 down Nassau Street and I look to the left of me. At first
14 I was just looking straight. I didn't even notice the car
15 creeping behind me. When I looked to the left of me, I
16 seen guns out the window so I tapped Eric Bradley like,
17 "Yo, run," and I turned around and I started running and
18 that was that and then I got shot in my back at the end of
19 the day. I mean, the people that exited the car nobody
20 said nothing. I didn't know who they were at that point in
21 time. There were no police lights. There wasn't no
22 "whoop, whoop" or none of that to make me realize who they
23 were.

24 Q. Let me break that down.

25 When you were walking along Nassau Street, do you

Page 104

1 know what direction you were walking? Was it east or west?

2 A. I don't know.

3 Q. For the record, I believe it's east, but when you
4 were walking on Nassau Street you said you saw a car?

5 A. Yeah.

6 Q. And which way was the car traveling?

7 A. The opposite direction.

8 Q. So the opposite direction from where you were
9 walking?

10 A. Yes.

11 Q. And then you said you saw guns pointed outside of
12 the car?

13 A. Yeah. When I looked to the left in the street to
14 see what was going on, I seen guns and that's when I tapped
15 Eric Bradley and I turned around and I ran and I was shot
16 like three times.

17 Q. Did you hear anybody in the car say anything to
18 you?

19 A. No.

20 Q. Did you hear anybody in the car say anything at
21 all?

22 A. No. They just hopped out.

23 Q. So nobody said "stop," "freeze," or anything like
24 that?

25 A. No. No hit the sirens or nothing.

Page 105

1 Q. Did anybody say "freeze"?

2 A. No.

3 MR. ABOUSHI: Objection. Asked and
4 answered.

5 Q. Did anybody say "stop"?

6 A. No.

7 Q. Did anybody say "police"?

8 A. No.

9 Q. So you said at that point you turned around and
10 ran the other direction?

11 A. Yes.

12 Q. So you ran the opposite on Nassau Street.

13 At that point after you ran opposite -- the
14 opposite direction, did you make any turns at all?

15 A. No. Not that I can recall. I think I ran
16 straight. I think I ran between cars it looked like.

17 Q. So you ran the opposite direction on Nassau
18 Street and then you made a turn into the street?

19 A. Yes.

20 Q. So the opposite direction -- so did you turn into
21 the street to your right or to your left?

22 A. That was to my -- when I'm running back, it's
23 going to be towards my right.

24 Q. And did you make -- was it like a 90-degree turn
25 or did you turn on an angle?

Page 106

1 A. I don't know.

2 MR. ABOUSHI: Objection to the form. An
3 angle is a 90-degree shape.

4 MR. WEINER: That's a good point.

5 Q. Do you remember what angle you turned onto the
6 street if it was a 90-degree angle or some other angle?

7 A. No. It was, I guess, 90.

8 Q. So you think it was a 90-degree turn that you
9 made?

10 A. Uh-huh.

11 Q. Is that yes?

12 A. Yeah.

13 Q. At any point when you were running the opposite
14 direction on Nassau Street, did you reach into your
15 waistband?

16 A. No.

17 Q. You did not reach into your waistband?

18 A. No.

19 Q. I'm going to play the video beginning at
20 12:45:31.

21 I stopped at 12:45:38.

22 In this video on the screen on your computer now,
23 are you turning around running the opposite direction on
24 Nassau?

25 A. Correct.

Page 107

1 Q. I'm going to play the video now from 12:45:38.

2 I stopped it at 12:45:40.

3 Does the screen depict you reaching into your
4 waistband?

5 A. No.

6 Q. I'm going to play those two seconds one more time
7 and you can tell me whether you see yourself reaching into
8 your waistband.

9 MR. ABOUSHI: Objection. Asked and
10 answered.

11 MR. WEINER: I'm going to play more of the
12 video and see if he can tell.

13 Q. I stopped the video at 12:45:32 and I'm going to
14 play it.

15 I've stopped it at 12:45:41.

16 In the video, did you see yourself reach into
17 your waistband?

18 A. No.

19 Q. Did you see yourself take out a gun in the video?

20 A. No.

21 Q. Does the portion of the video I just played
22 refresh your recollection as to whether you made a
23 90-degree turn into the street?

24 A. I guess so, yeah.

25 Q. You believe that the video shows you making a

Page 108

1 90-degree turn?

2 MR. ABOUSHI: Objection. You can answer if
3 you can. The question seems a little convoluted.
4 I'll let the witness answer, but I would just
5 request you rephrase if you can.

6 A. I made a turn -- a right turn into the street.
7 Like, I mean --

8 Q. So you turned right into the street?

9 A. Yes.

10 Q. After you turned right into the street -- after
11 you got into the street, what is the next thing that
12 happened?

13 A. I remember me running and then I just collapsed.
14 I heard gunshots and I collapsed. I fell straight to the
15 floor. I slid on the floor.

16 Q. How many gunshots?

17 A. I would say like seven or eight it sounded like.
18 I mean, I was running for my life. I heard gunshots. I
19 can't recall like how many gunshots, but I know it was a
20 lot. It was a lot. They were rapid so next thing you know
21 I was on the floor.

22 Q. Did you see any gun flash? Did you see a flash
23 of any gun?

24 A. No. Uh-uh. I just heard them. Like I heard --
25 I think it was like one shot like whizzed by my head. It

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1 A. I can't testify to that. I don't know. I know
2 that it happened rapidly. It was like going off.

3 Q. So it happened within seconds?

4 A. I wouldn't say that, but it was -- because you
5 have to realize it was -- like I said, I heard at least
6 about seven or eight shots. I only got hit three times --
7 twice in my lower back and once in my arm -- my left arm,
8 you know.

9 Q. So how long was it between the first and last
10 shots?

11 A. I can't really recall. Seconds.

12 Q. Was it less than ten seconds?

13 A. I can't say it's less than ten seconds or more.

14 Q. I'm going to play the video. All right?

15 Okay. I just played until 12:45:46.

16 At this point in the video, are you down on the
17 ground?

18 A. I don't know because I'm not in the video, but
19 you can see that there's officers pointing guns towards the
20 direction that I ran. I see two of them in the street
21 right there pointing guns. If you play back, you can see.
22 It's two of them aiming. It looks like they were aiming.

23 MR. WEINER: I'm going to stop sharing my
24 screen for a second. Bear with me. I'm going to
25 share my screen again and we are going to go to

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1 that you were being strongly observed by an individual who
2 was later revealed to be a police officer? Did you see any
3 part about that?

4 A. No.

5 Q. I want to go to the end of the first page. Just
6 start over here with the word "on."

7 A. Yeah. I see it.

8 Q. Now, do you see anything in the complaint report
9 about you mentioning being strongly observed by an
10 individual who was revealed to be a police officer?

11 A. That's what it says, yes. It says later on found
12 out that it was a police officer.

13 Q. Does this help refresh your recollection about
14 any interactions you had inside of Amarachi Prime on the
15 night of the incident?

16 A. Yeah. After reading paperwork, yeah.

17 Q. What do you remember now?

18 A. I remember being approached by somebody.

19 Q. Who approached you?

20 A. I think Jason Marshall, yeah.

21 Q. When Jason Marshall approached you, what
22 happened?

23 A. He approached me about a female bartender.

24 Q. What do you mean he approached you about a female
25 bartender?

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1 A. He approached me about a female bartender telling
2 me that I can't be talking to her or, like, fraternizing
3 with her.

4 Q. Do you remember when? Was this -- how long
5 before you left was this interaction with him?

6 A. I can't recall.

7 Q. Did he say why he didn't want you to interact
8 with the female bartender?

9 A. No. Uh-uh.

10 Q. Did you say anything to him?

11 A. No.

12 Q. Did you make any physical contact with him?

13 A. Not that I can recall, no.

14 Q. Did he make any physical contact with you?

15 A. Not that I can recall, no.

16 Q. What else do you remember about your interaction
17 with Jason Marshall?

18 MR. ABOUSHI: Objection.

19 A. Not that much. It was just a quick encounter
20 about a female and that was just that. After that it
21 was -- you know, I was probably in there for maybe
22 approximately an hour or two.

23 Q. When Jason Marshall told you not to interact with
24 the female bartender, you didn't say anything to him?

25 A. What am I saying to him?

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1 going to go to page 6.

2 (Whereupon, notice of claim documents were
3 marked as Defendants' Exhibit 11 for
4 identification as of this date by the Reporter.)

5 Q. Mr. Benbow, do you see what's on the screen as
6 page 6?

7 A. Uh-huh.

8 Q. Do you see it says at the top of the screen
9 "notice of 50-h hearing"?

10 A. Yeah.

11 Q. This document is dated 6/23/2015.
12 Do you see that?

13 A. Uh-huh.

14 Q. Is that yes?

15 A. Yes.

16 MR. ABOUSHI: Can you scroll down a little?

17 MR. WEINER: Absolutely.

18 Q. This letter says your name on it, correct?

19 A. Yes.

20 Q. And it says specifically: Claimant name James
21 Benbow." Do you see where it says that in the middle top
22 of it?

23 A. Yes.

24 Q. Can you read -- underneath where it says "dear
25 sir/madam," can you read that paragraph?

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1 A. "Please take notice that, pursuant to Section
2 50-h of the general municipal law, claimant is mandated by
3 law to appear at the following location, at the date and
4 time specified below, to be orally examined under oath
5 relative to the occurrence and extent of injuries for which
6 the above claim is made."

7 Q. And what does it say underneath there?

8 A. 8/27/2015 at 12:00 p.m.

9 Q. Who is this letter addressed to?

10 MR. ABOUSHI: Just note my objection to this
11 document.

12 A. It's addressed to Kenneth Montgomery.

13 Q. Who is Kenneth Montgomery?

14 A. He was my lawyer at the time.

15 Q. Did he ever inform you that you had a notice of
16 hearing scheduled for August 27, 2015?

17 A. No. I was in jail.

18 MR. WEINER: No further questions.

19 MR. ABOUSHI: Mr. Benbow, just a few
20 follow-up questions.

21 **EXAMINATION BY**

22 **MR. ABOUSHI:**

23 Q. Did the city ever send you this notice?

24 A. No.

25 Q. Did the city ever attempt to schedule your 50-h